

The Commission's first substantive assessments under the FSR

Theory	Article 3 FSR - Foreign subsidy Foreign financial contribution (FFC) conferring a benefit on the undertaking, including:	Article 4 FSR - Distortion in the internal market Where a foreign subsidy is liable to improve the competitive position of the undertaking, based on:
	<ul style="list-style-type: none"> • Transfer of funds or liabilities • Foregoing of revenue • Provision/purchase of goods/services 	<ul style="list-style-type: none"> • The amount and nature of foreign subsidy • The size/level of the economic activity of the undertaking and the sector • The purpose and conditions attached to the foreign subsidy
Practice	CRRC <ul style="list-style-type: none"> • Public procurement contracts of over EUR 7,5 billion, where CRRC failed to prove these contracts were awarded on competitive market conditions • Government grants of EUR 804 million accounted for as deferred income • Grants not closely related to company's business of EUR 941 million 	<ul style="list-style-type: none"> • Total amount of foreign subsidies of EUR 1.745 billion (five times larger than value of bid)
	<ul style="list-style-type: none"> • Government grants and financing • Tax refunds, fiscal incentives and levies • Sale of goods and provision of EUR 546 million (for Shanghai Electric). 	<ul style="list-style-type: none"> • The absolute amount of potential foreign is subsidies significantly higher than the contract value (recital 19 FSR), and the Commission is not given insight into the financial proposal of the tender • No information provided on the nature, conditions, purpose or use of foreign subsidies, and no proof of limiting cross-subsidisation • Financial support from group entities and loss-making characteristics of the parent company's foreign operations (additional indications)
	e& <ul style="list-style-type: none"> • Unlimited guarantee, which derives notably from exemption of e& from applicable UAE Bankruptcy Law • Term loan granted by five state-owned banks • Other FFCs preliminary identified as 'foreign subsidies' (notably in relation to awarded contracts) 	<ul style="list-style-type: none"> • Unlimited guarantee and term loan likely to directly facilitate the transaction and liable to improve competitive position afterwards by allowing to raise financing for EU activities at preferential terms • Preliminary identified subsidies liable to improve competitive position of e& on the internal market • Preliminary identified subsidies likely to have improved competitive position in the acquisition process (further review in particular in view of existence of potential other interested buyers and whether e& would have been able to acquire on the same conditions without the relevant subsidies).